

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RONALD M. GEORGIA,

Plaintiff,

vs.

3:21-cv-484

KYLE DAVENPORT,

Defendant.

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Transcript of Testimony  
April 21, 2023  
Federal Building and Courthouse  
15 Henry Street  
Binghamton, New York

The HONORABLE MIROSLAV LOVRIC Presiding.

A P P E A R A N C E S

For Plaintiff: EDWARD KOPKO, ESQ.  
JASON VIOLETTE, ESQ.  
KEVIN KELLY, ESQ.

For Defendant: WILLIAM TROY III, ESQ.

*Ruth I. Lynch, RPR, RMR, NYSRCR  
Official United States Court Reporter  
Binghamton, New York 13901*

1 THE CLERK: Case is Ronald M. Georgia versus Kyle  
2 Davenport, 3:21-cv-484. Please state your appearances for  
3 the record.

4 MR. KOPKO: Edward Kopko for the plaintiff.

5 THE COURT: Good afternoon, Mr. Kopko.

6 MR. TROY: William Troy for the defendant.

7 THE COURT: All right. Good afternoon, Mr. Troy.

8 All right. Well, we're back this afternoon,  
9 Friday, the 21st. And as we may recall, we last had  
10 Mr. Georgia on the stand as a witness in the case-in-chief  
11 of the plaintiff, and I believe, Mr. Kopko, if I recall  
12 correctly, Plaintiff had completed the direct examination of  
13 Mr. Georgia. Is that right?

14 MR. KOPKO: Yes, sir, that's correct.

15 THE COURT: All right. So in connection with  
16 that, the next step will be Mr. Georgia will be examined by  
17 Mr. Troy, and we will -- we will conduct -- conduct that  
18 this afternoon.

19 The second thing to take up, before we went on the  
20 record the attorneys informed the Court that there was an  
21 exhibit or there is an exhibit that's been marked as  
22 Number 43, and it's an aerial photograph of the location  
23 where the alleged events occurred, and it's a slightly  
24 different angle than the other photograph. And my  
25 understanding, Mr. Kopko and Mr. Troy, is that the parties

1 agree and consent to that Exhibit 43 being received in  
2 evidence.

3 Am I correct, Mr. Kopko?

4 MR. KOPKO: Yes, sir.

5 THE COURT: Mr. Troy?

6 MR. TROY: Yes.

7 THE COURT: All right. So the record and the  
8 clerk will note in the exhibit list, Exhibit Number 43 is  
9 received in evidence and may be utilized by the parties at  
10 will as they see appropriate.

11 And lastly on that topic, at the end when you put  
12 that USB together, that will have all the exhibits that are  
13 in evidence, please add 43 in there also on that USB.

14 All right. Then the -- the next topic before we  
15 break for Mr. Kopko, Mr. Kopko has a very brief Teams video  
16 and/or audio at 1:30 with another court, and this Court  
17 indicated that we would take a break to accommodate that.  
18 So before we do that break, Mr. Kopko and Mr. Troy, just,  
19 what do you anticipate us getting completed today, and then  
20 what do you anticipate we will be doing on Monday, just so  
21 we have somewhat of a schedule that we're looking at?

22 MR. KOPKO: Your Honor, I expect that Attorney --

23 THE COURT: Use the microphone, Mr. Kopko.

24 MR. KOPKO: I expect that Attorney -- may I sit  
25 down, your Honor?

1           THE COURT: You may, yeah. Please. You guys can  
2 sit as you like or stand, or at the podium or at your table.  
3 Please do whatever's going to be comfortable.

4           MR. KOPKO: Thank you, sir. This afternoon I  
5 anticipate that Attorney Troy will be completing his  
6 examination of the plaintiff, Mr. Georgia, then he will  
7 examine the defendant, and then I will do a cross of the  
8 defendant, but I will not be covering the same ground, so to  
9 speak, as I did when I called him as a party opponent in my  
10 case-in-chief.

11          THE COURT: Okay.

12          MR. KOPKO: And then on Monday, we anticipate  
13 calling Sergeant Vann, V-A-N-N, with the Tompkins County  
14 Sheriff's Department, and I think that that's going to be  
15 it, Judge.

16          THE COURT: Okay. Just mechanically speaking, is  
17 Sergeant Vann going to be called by the plaintiff or by the  
18 defendant or are you guys doing it kind of in combo?

19          MR. KOPKO: I am going to call him.

20          THE COURT: Okay, so he'll be -- okay. So just  
21 mechanically today, we will complete the cross-examination  
22 of Mr. Georgia, and then, Mr. Troy, then you will be calling  
23 on your direct the defendant, Mr. Davenport?

24          MR. TROY: That is correct, your Honor.

25          THE COURT: Okay. And then Monday we will switch

1 back to the plaintiff's case where you, Mr. Kopko, will call  
2 as your witness Sergeant Vann.

3 MR. KOPKO: Yes, sir.

4 THE COURT: Okay. Okay. Just so it's clear. So  
5 the plaintiff's case-in-chief will not be completed today,  
6 but we're just doing things out of order just to accommodate  
7 everybody's schedules, including Sergeant Vann. Is that  
8 right, Mr. Kopko?

9 MR. KOPKO: Yes, sir.

10 THE COURT: Okay. Good. All right. So just for  
11 the purposes of the record, I'll state that once  
12 Mr. Georgia's completed that we will now switch over to the  
13 defendant's case again and then come back to the plaintiff's  
14 case on Monday. And then on Monday after the plaintiff's  
15 case I assume, Mr. Kopko, that Sergeant Vann will be your  
16 last witness?

17 MR. KOPKO: Yes, sir, that's true. And just for  
18 planning for the Court, I expect that his testimony is going  
19 to be very short. I'm thinking like 35 or 40 minutes or  
20 something like that.

21 THE COURT: Yep. It can be two hours. Like I  
22 said, I got all the time in the world.

23 Okay. And then, then once that happens on Monday,  
24 Mr. Kopko, then after Sergeant Vann, if you rest your case,  
25 then, Mr. Troy, do you anticipate calling any other

1 witnesses besides Mr. Davenport?

2 MR. TROY: Not as of today, your Honor, no.

3 THE COURT: Okay. All right, so then after  
4 Mr. Kopko rests, then we'll entertain any motions on the  
5 record, and then if -- Mr. Troy, if you rest your case, I'll  
6 entertain any motion after all of the proof. And then also  
7 if -- if there is no rebuttal case, Mr. Kopko, and again,  
8 I'm not holding you to it, but if there's no rebuttal case,  
9 then I presume that the evidence will be completed after  
10 Sergeant Vann. Is that right?

11 MR. KOPKO: Yes, sir.

12 THE COURT: All right. Okay. So that's on the  
13 record, and we're going to do -- so now it's about 1:20.  
14 So we're going to break, Mr. Kopko, and you have a few  
15 minutes to get ready for your 1:30 Teams meeting, and then  
16 as soon as you're finished my courtroom deputy will let me  
17 know, we'll come out, and then we'll continue with the cross  
18 of Mr. Georgia.

19 MR. KOPKO: Thank you, sir.

20 THE COURT: Okay. All right, everyone, we'll take  
21 a break.

22 (Recess taken)

23 THE COURT: Let's go on the record. All right.  
24 We're back from our short break this afternoon, Friday, the  
25 21st.

1           So, Mr. Georgia, if we could have you come back up  
2 to the witness stand here. And if you could be seated and  
3 make yourself comfortable. All right. And, Mr. Georgia,  
4 you're still under oath.

5           THE WITNESS: Okay.

6           THE COURT: And as you may recall, and attorneys  
7 do, Mr. Kopko completed his examination with you on  
8 Wednesday, and so now we're going to continue with Mr. Troy  
9 examining you, and then we'll go from there. So. And,  
10 Mr. Georgia, just use that microphone. It's a little like  
11 the Three Little Bears; not too close, not too far --

12          THE WITNESS: Just right.

13          THE COURT: -- just right, right.

14          So, and the same thing, Counsel, please use the  
15 microphone so that the court reporter and the Court can hear  
16 you, and then we'll go from there.

17          All right, Mr. Troy, you may examine.

18          MR. TROY: Thank you.

19          MR. KOPKO: Just a silly thing here, your Honor,  
20 this -- there's a button on the bottom that says push. Does  
21 that mute this, then? Yes?

22          THE COURT: I'm going to ask the expert.

23          THE CLERK: Yes. It mutes it.

24          MR. KOPKO: All right. Thank you so much.

25

1 RONALD GEORGIA,  
2 having been recalled as a witness, having  
3 been previously duly sworn, testified further as  
4 Follows:

5 CROSS-EXAMINATION

6 BY MR. TROY:

7 Q Good afternoon, Mr. Georgia.

8 A Good afternoon.

9 Q We've met only briefly, I think, before this  
10 proceeding. Is that right?

11 A That's correct.

12 Q Okay. Now, I'd like to take you back to the day of  
13 this event. Can you tell us the date?

14 A It was June 1st, 2019.

15 Q Okay. And you told us that you were working on your  
16 property that -- that day, and then you ended up starting to  
17 drink about 8:00 at night. Was that right?

18 A To the best of my recollection.

19 Q Please understand I'm not trying to put words in your  
20 mouth, so if you're uncomfortable just say I can't answer  
21 that, okay?

22 A Sure.

23 Q Now, you began drinking at what time? About eight?

24 A I don't remember exactly when.

25 Q How many hours were you drinking before you



1 encountered the officer?

2 A A couple. Maybe three.

3 Q Three? And how much vodka did you consume?

4 A I don't remember.

5 Q What were you drinking it in, what size glasses?

6 A I don't remember.

7 Q How much were you putting in each glass with ice and  
8 anything else you were putting in?

9 A I don't remember.

10 Q Would you agree, though, that you were intoxicated  
11 that evening?

12 A Yes.

13 Q And about what time did you consider yourself to be  
14 intoxicated?

15 A I don't remember.

16 Q Did you stop drinking when you realized you were  
17 intoxicated? Or did you continue?

18 A I don't remember.

19 Q So you were having trouble remembering things that  
20 night. Is that fair to say?

21 A No, not really, I just wasn't paying attention to what  
22 you're asking.

23 Q Now, you have told us in your testimony already what  
24 happened. And that happened on the 1st of what month?

25 A June.

1 Q June. Okay. Now, do you remember appearing in the  
2 office of a lawyer named Luciano Lama in Ithaca?

3 A Yes.

4 Q Did you know Mr. Lama?

5 A No.

6 Q Okay. And that was on June 4th. Is that right?

7 A That's correct.

8 Q Now, you told us about what happened to you at the  
9 scene, but I want to question you about this one point. You  
10 were seeking to file a Notice of Claim against the sheriff's  
11 department when you went to Mr. Lama's office. Is that  
12 right?

13 A Could you repeat that? Speak a little louder, I'm  
14 having trouble hearing you.

15 Q You were planning to file a claim against the Tompkins  
16 County Sheriff's Office when you went to Mr. Lama's office?

17 A No.

18 Q Were you there to sign a Notice of Claim?

19 A No. I was there to try to find a lawyer.

20 Q Okay. Did you prepare something with Mr. Lama?

21 A He prepared it.

22 Q Were you sitting in the office when that happened?

23 A Yes.

24 Q Did you sign it?

25 A I did.

1 Q Did you understand it was a sworn statement?

2 A I do.

3 Q Okay, it was dated 1 -- excuse me, June 4, 2019?

4 A That's correct.

5 Q And you told us earlier in your testimony what  
6 happened to you that evening. Is that right?

7 A That is correct.

8 Q And you were asked a couple of days later to reduce  
9 that to writing. Is that fair to say?

10 A It's -- it's fair to say that, yes.

11 Q Okay. Now, I'm going to show you Exhibit 42.

12 MR. TROY: May I approach, your Honor?

13 THE COURT: Certainly.

14 BY MR. TROY:

15 Q Now, do you see the paragraph beginning that claimant  
16 continued to object?

17 A I'm sorry, repeat that?

18 Q Did you see -- you see the paragraph beginning as  
19 claimant continued to object to the deputy's presence?

20 A Yes.

21 Q You say in this statement another deputy suddenly  
22 appeared out of the dark who had not been visible before.  
23 Is that right? Is that what you said or wrote?

24 A Yes.

25 Q Where did this person come from in terms of where did

1 he step out of, or she?

2 A I have no idea.

3 Q And you say this person attacked claimant, taking him  
4 to the ground with violence. Is that right?

5 A How I remembered it, yes.

6 Q And that he then -- it's a he, is that right, it's not  
7 a female?

8 A Yes.

9 Q He kneed claimant in the back, injuring your ribs. Is  
10 that -- is that your statement?

11 A Yes.

12 Q And placed handcuffs on claimant so improperly, so  
13 excessively tight, that claimant suffered serious injuries  
14 to his hands, arms, and wrists that required treatment at  
15 Cayuga Medical Center.

16 A Yes.

17 Q Did you -- did you read that before you signed it?

18 A Yes.

19 Q And that is your signature on the second page. Do you  
20 agree?

21 A Yes, it is.

22 Q Who was this officer who did these things to you?

23 A I do not know.

24 Q But you say it was this officer who was in addition to  
25 the defendant here. Is that right?

1 A As I remembered it at that time.

2 Q All right. So you have two people at the scene, two  
3 officers doing this to you. Is that right?

4 A As my memory was at the time.

5 Q Okay. Was anything affecting your memory at the time?

6 A Yes, there was. Can I explain?

7 Q Just yes or no.

8 A Yes.

9 Q Okay. And was drink one of them reasons?

10 A No.

11 Q Okay. But did you later learn that there were not two  
12 deputies there initially, at least, there was just one?

13 A Yes.

14 Q When did you learn that?

15 A When I saw the police video body cam footage.

16 Q And how long ago was that?

17 A I can't honestly answer that. It's been three years  
18 and ten months.

19 Q Was it a year ago, was it closer to the time?

20 A Probably the first year, when Mr. Kopko got the  
21 evidence.

22 Q And did you later -- excuse me. Do you remember that  
23 another officer or sergeant responded to the scene while you  
24 were there with the defendant?

25 A After watching the body cam video footage.

1 Q I'm talking about at the time you prepared this sworn  
2 statement.

3 A At the time I remembered completely differently.

4 Q Okay. And -- and you had three deputies at the site  
5 doing things to you. Is that right?

6 A At the time that's how I saw it, yes.

7 Q Okay. When did you learn there was only one deputy  
8 at -- at the spot until --

9 A When I saw the body cam footage.

10 Q Now, you, of course, were paying attention to what was  
11 going on at that time, weren't you?

12 A Up until I was assaulted by the police officer there  
13 and was thrown backwards and hit my head and believe I was  
14 concussed, I remember everything prior to that.

15 Q All right. And the officer you're describing is whom?

16 A Mr. Davenport.

17 Q Now, did you ever change the Notice of Claim terms and  
18 the language in it?

19 A I don't understand.

20 Q Did you redo this, this Notice of Claim?

21 A Not with Mr. Lama.

22 Q But you prepared another statement with your current  
23 lawyer.

24 A I did.

25 Q But did you ever go to the County and say I withdraw

1 that statement because it's not accurate?

2 A I didn't know the legalities of that statement. I had  
3 not hired Mr. Lama. It was a consultation. He told me he  
4 couldn't represent me in court because his daughter-in-law  
5 was an assistant district attorney and that he'd be more  
6 than willing after I was cleared of the charges that I could  
7 hire him. And he wrote that out, told me to take it to the  
8 sheriff's department, so I did.

9 Q Okay. Now, you were taken to a car to go to the  
10 police station.

11 A That's correct.

12 Q By two deputies. Is that right?

13 A Yes.

14 Q Okay. And were you dragged, or did you walk down the  
15 driveway?

16 A Both. I was pulled down the driveway. I was forced  
17 down. That's where the bruises on my arms that were shown  
18 yesterday came from.

19 Q That's -- okay. But that doesn't mean you were  
20 dragged. There were two officers walking down. Do you  
21 agree?

22 A They forced me to go with them, yes. They kidnapped  
23 me.

24 Q Oh, they kidnapped you.

25 With regard to how you got down the driveway, all

1 right.

2 MR. TROY: Bear with me one moment, your Honor.

3 THE COURT: Certainly.

4 MR. TROY: I just need another moment, Judge, I'm  
5 sorry.

6 THE COURT: That's okay, take your time, Mr. Troy.

7 BY MR. TROY:

8 Q Isn't it a fact you actually walked down the driveway  
9 with the two officers and walked and got in the car after  
10 you were searched?

11 A I honestly don't remember from that night, so when I  
12 watch the body cam footage I remember it now, because I've  
13 seen it so many times, and I get a little confused as to  
14 what I actually remember that night because it's polluted by  
15 what I have now seen with the body cam footage which I  
16 cannot argue with.

17 Q Now, that night -- Lucinda is your significant other?

18 A She is.

19 Q And you had two boys at that time?

20 A I did.

21 Q How old were they?

22 A At the time they were 14.

23 Q They were twins.

24 A Yes.

25 Q All right. Now, were they at the house that night?



1 A They were.

2 Q Did they come out at all when this happened?

3 A No. Not -- they came out, apparently, afterwards.

4 Q Okay. Did you -- when you were talking to the deputy  
5 or engaging with the deputy, did you ask for your wife or  
6 sons to come out?

7 A No.

8 Q Did you go in the house to get your wife?

9 A At -- at one point I turned to go in the house to go  
10 to the bathroom and go to bed but was grabbed and turned  
11 back around.

12 Q And who did that?

13 A Officer Davenport.

14 Q When did he do that?

15 A It's on the video.

16 Q Okay. What did he do?

17 A He grabbed my arm and redirected me.

18 Q Did you say to him I'm going in the house now to get  
19 some sleep?

20 A No. I didn't think it was any of his business.

21 Q And at what point in the evening? So if I remember --  
22 withdrawn.

23 Let me just back up to what I understand from  
24 these videos. The officer is wearing it, and at one point  
25 you asked him do you want to dance. Is that right?

1 A Excuse me?

2 Q You asked him if he wanted to dance with you?

3 A I did.

4 Q Okay. Was that the time when you were going to go  
5 upstairs and go to bed?

6 A No.

7 Q Was it before or after that time?

8 A It was after that.

9 Q How far after, what were you doing?

10 A I don't remember.

11 Q So it's your testimony that you were all ready to go  
12 to bed and was stopped by the officers?

13 A In fact, if he --

14 Q Is that -- is that your testimony --

15 A Yes.

16 Q -- yes or no?

17 Okay. What were you doing just before you were  
18 stopped from doing that?

19 A Telling Officer Davenport to leave my premises, giving  
20 him a lawful order.

21 Q Now, nowhere in the Notice of Claim is it noted that  
22 you were attempting to go upstairs and get some sleep in  
23 your house. Is it?

24 A It wasn't asked.

25 Q But you didn't put it in as an important piece of

1 evidence, did you?

2 A No.

3 Q Do you know why you were taken to the hospital?

4 A I do from watching the video of the body cam video but  
5 my memory wasn't the same as that.

6 Q What was your memory?

7 A Because I asked to go because of the injuries that  
8 they put on me. And it was very vague.

9 Q How was it vague?

10 A Because, again, my memory is polluted by actually  
11 watching the body cam video that I now remember because I've  
12 watched it. But what I had remembered three years and ten  
13 months ago before I saw the body cam footage was completely  
14 different, that I believe had to do with being concussed.

15 Q So have you ever had a diagnosis of being concussed?

16 A I don't believe that a person that suffers a  
17 concussion actually knows that, no.

18 Q So you have not had --

19 A No.

20 Q -- a medical finding?

21 A No.

22 Q And you went to the hospital. Is that right?

23 A I was brought to the hospital, yes.

24 Q And do you know why you went to the hospital?

25 A I thought for my injuries.

1 Q Did you know of any other reason why you went to the  
2 hospital?

3 A No.

4 Q Did you know about the mental hygiene law?

5 A Excuse me?

6 Q Did you know anything about this so-called mental  
7 hygiene law?

8 A No.

9 Q So you went to the police station actually before you  
10 went to the hospital. Is that right?

11 A That is correct.

12 Q And you were processed there briefly, and then they  
13 put you in a car and took you to the hospital, correct?

14 A According to the video, yes.

15 Q You watched the video, we're going to play, we are  
16 going to go through it.

17 A Sure, I've watched it multiple times.

18 Q So if I understand correctly, from reading the  
19 material, you were found not to have any fractures. Is that  
20 correct?

21 A That's correct.

22 Q You were found -- you were not stitched for anything?

23 A No.

24 Q You were X-rayed and there was no finding of any  
25 problems internal?

1 A No broken problems.

2 Q Okay.

3 A Contusions.

4 Q I'm sorry?

5 A Contusions, yes.

6 Q Contusions.

7 A Yes.

8 Q And you had contusions in part because you were taking  
9 pills, right?

10 A Absolutely not. I -- I --

11 Q Yes or no, please.

12 A No.

13 Q Okay. But you were taking medications. Is that  
14 right?

15 A I take some medication, yes.

16 Q You take blood thinners, correct?

17 A Baby aspirin.

18 Q You take blood thinners?

19 A Okay, yes.

20 Q And that can contribute to some bleeding with even a  
21 relatively minor contact.

22 MR. KOPKO: I object to that, your Honor, he's not  
23 competent to --

24 THE COURT: I'm sorry, Mr. Kopko? Just use the  
25 microphone.

1 MR. KOPKO: I object here. He's asking him for a  
2 medical opinion about the effect of taking baby aspirin.

3 THE COURT: No, I -- I don't think he's asking for  
4 a medical opinion. I think he's asking whether Mr. Georgia  
5 knows or not whether medicine that he's taking had a certain  
6 impact on his body. I mean, I'll allow it. That's like  
7 saying to him, you know, when you did X, Y, and Z, did it  
8 hurt. He's allowed to say yes or no. I don't think it's  
9 asking for any kind of a medical opinion. It'd be different  
10 if he asked him some procedure or something and what that  
11 meant, so I'm going to allow it.

12 MR. TROY: Can I have the question repeated,  
13 please?

14 (The stenographer read back.)

15 BY MR. TROY:

16 Q Yes or no.

17 A I -- no.

18 Q Have you ever thought about stopping your blood  
19 thinners?

20 A Only if my physician told me to.

21 Q And who is your physician at that time?

22 A Dr. Marino.

23 Q First name?

24 A Don't know.

25 Q What kind of doctor?

1 A Cardiologist.

2 Q Do you have a regular internist, a general  
3 practitioner?

4 A I do. I -- I have a physician's assistant.

5 Q Which office does he or she work?

6 A Cayuga Medical Associates.

7 Q So you've never lost any income from work as a result  
8 of this incident, right?

9 A No, because I was on vacation and then I used sick  
10 time.

11 Q So the answer's you never lost --

12 A No. No.

13 Q You don't have any medical bills that weren't covered.  
14 Is that right?

15 A I had to pay some copay.

16 Q Okay. You did not have any surgeries. I think we've  
17 covered that already. Is that right?

18 A That's correct.

19 Q Were you able to go back to work when your vacation  
20 was over?

21 A No; I took another week and a half, because of the  
22 injuries, of sick time.

23 Q But at some point you go back to work. Is that right?

24 A That's correct.

25 Q And you drove a bus?

1 A That's correct.

2 Q You had no restrictive duty during that. Is that  
3 right?

4 A No.

5 Q You were not found to have any fractures. Is that  
6 right? I may have asked that.

7 A No.

8 Q No, that's not right, or it is right?

9 A I -- it's right, I was not found to have any  
10 fractures.

11 Q You went back to work in about a week and a half after  
12 your vacation was over?

13 A That's correct.

14 Q And you worked at TCAT bus system?

15 A That's correct.

16 Q Where do you principally work, where is it?

17 A Excuse me?

18 Q Where do you principally work for TCAT?

19 A That's who I work for, that's my employer.

20 Q You don't have -- you don't have set routes, for  
21 example?

22 A Oh, yes.

23 Q Do you bid for the routes?

24 A We do.

25 Q Okay, did you lose any bids on your routes because of



1 this?

2 A No. My vacation started at the beginning of the  
3 summer bid. That very day.

4 Q Just for the sake of order, Exhibit 43 you've seen, I  
5 think, up close?

6 A Yes.

7 Q Is that a fair depiction of what your house looks like  
8 from the air?

9 A That's very correct.

10 Q Okay.

11 MR. TROY: All right, I have nothing further, your  
12 Honor. Thank you.

13 THE COURT: All right, Mr. Troy.

14 Mr. Kopko, any redirect?

15 MR. KOPKO: Just a brief indulgence, your Honor,  
16 please.

17 THE COURT: Sure.

18 MR. KOPKO: Nothing, your Honor, thank you.

19 THE COURT: All right, no redirect, so there's no  
20 recross.

21 All right, Mr. Georgia, you're excused. You can  
22 go back to counsel table.

23 THE WITNESS: Thank you.

24 (The witness was excused.)

25 THE COURT: All right. So, Mr. Kopko and

1 Mr. Troy, just to make sure I understand, so what we're  
2 going to do next, if I understood correctly, and if I put it  
3 on the record correctly, is that we're going to now go out  
4 of order. Mr. Kopko's next witness will be available on  
5 Monday, April 24th. That's Sergeant Vann. So we're going  
6 to put the plaintiff's case-in-chief aside, and we'll go  
7 over to the defense case-in-chief where my understanding is,  
8 Mr. Troy, you're going to call as your witness  
9 Mr. Davenport. And then we'll continue with that today,  
10 then on Monday we'll go back to the plaintiff's  
11 case-in-chief where Mr. Kopko will put Sergeant Vann on the  
12 line -- on the stand, and then we'll go from there, so.

13 Is that what we're doing, Mr. Kopko?

14 MR. KOPKO: Yes, sir.

15 THE COURT: All right, Mr. Troy, is that my -- am  
16 I correct about that?

17 MR. TROY: Yes, sir.

18 THE COURT: Yep.

19 MR. TROY: Yes.

20 THE COURT: Okay. So we're going to take things  
21 out of order. So, Mr. Troy, you may begin your  
22 case-in-chief.

23 MR. TROY: Yes. I call the defendant.

24 THE COURT: Okay, Mr. Davenport?

25 All right, Mr. Davenport, if you could come back

1 to the witness chair and make yourself comfortable there.  
2 And, yeah, let's have the oath again, just for the record.

3 THE CLERK: Can you please state your full name  
4 for the record.

5 THE WITNESS: My name is Kyle William Davenport.

6 THE CLERK: Please raise your right hand.

7 (The witness was duly sworn.)

8 THE COURT: All right, so, Mr. Davenport, again,  
9 use the microphone, and not too close, not too far, and  
10 speak clearly and slowly.

11 And, Mr. Troy, you may proceed.

12 MR. TROY: Thank you, your Honor. At this time  
13 with the help of counsel I'm going to be using the computer  
14 technology to walk him through what happened in those 2  
15 25-minute periods, roughly, and have him explain what was  
16 happening then.

17 THE COURT: Certainly.

18 KYLE DAVENPORT

19 having been called as a witness, having  
20 been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. TROY:

23 Q So I had asked you, Officer, just to let us know if  
24 you have trouble seeing or hearing anything. Can you do  
25 that?

1 A Yes, I can.

2 MR. TROY: Let's start. Is there a volume? Let's  
3 stop for a moment.

4 THE COURT: Just take your time, get the volume  
5 right, and then we'll start everything. So don't worry  
6 about playing. It's easier to get the volume right when you  
7 hear it.

8 (Video playing)

9 THE COURT: You see the green bar on the right  
10 bottom? Can you drag that?

11 We can go off the record, Miss Lynch.

12 (Off-the-record discussion was held.)

13 THE COURT: Ruth, back on the record.

14 (Video played)

15 BY MR. TROY:

16 Q Now, Officer, can you describe for us what's happening  
17 here?

18 A Yes. I'm getting out of my patrol vehicle and walking  
19 down the driveway of 791 VanOstrand Road.

20 Q And that's the plaintiff's home?

21 A That is correct.

22 Q How did you come to be there?

23 A I was dispatched to a noise complaint at that address,  
24 791 VanOstrand Road in the Town of Lansing.

25 Q And you heard music when you pulled up?

1 A That's correct.

2 Q Did you know the details of the noise complaint?

3 A I did at the time. I don't recall right now.

4 THE COURT: Mr. Troy, just to make sure, we're  
5 looking at Exhibit Number?

6 MR. TROY: P-14.

7 THE COURT: 14, okay, just so the record's clear  
8 which video. Okay.

9 MR. TROY: All right, start up again.

10 (Video played)

11 BY MR. TROY:

12 Q Now, was that you speaking?

13 A That's correct.

14 Q What are you saying?

15 A What's up, guys.

16 Q Who are the guys?

17 A I don't know. I said that because the music was so  
18 loud and it was outside, I figured there was a large party  
19 going on.

20 Q You didn't know how many people were there, you  
21 assumed there was a number. Is that right?

22 A That's correct.

23 Q Okay.

24 (Video played)

25 Q Now, you're hearing music at this time. Correct? As

1 you're walking up here?

2 A Yes, that's correct.

3 Q As you were dispatched and came to the house. Where  
4 were you located when you first began to hear loud music?

5 A I would say about maybe 75 feet from the driveway,  
6 when I was driving up to --

7 Q From the road?

8 A On the roadway, yes.

9 Q Okay. And the driveway is how long?

10 A Roughly a hundred thirty feet.

11 Q Okay. All right. So as you approached the house  
12 about 75 feet did you say you were away?

13 A That's right.

14 Q You could hear loud music?

15 A That's correct.

16 Q About that same volume?

17 A It was a little less than that.

18 Q Okay. All right. Proceed.

19 (Video played)

20 Q Now, who is speaking to you like that?

21 A That is the plaintiff, Ronald Georgia.

22 Q Did you know who that was at the time?

23 A No, I did not.

24 Q Okay. And -- okay, proceed.

25 (Video played)

1 Q Okay, now, did you know this man who was approaching  
2 you?

3 A Yes, I saw that he was approaching me.

4 Q Did you know who he was?

5 A No, I did not.

6 Q Was he the only person you saw there at the time?

7 A That's correct.

8 Q Okay. And he approached you somewhat closely as shown  
9 in this still picture. Is that right?

10 A That's correct.

11 Q How far away was he from you when he approached you  
12 like this?

13 A I would say about one foot away from me.

14 Q Now, so you're wearing a camera of some sort. Is that  
15 right?

16 A That's correct.

17 Q And where was it -- if you could stand up and just  
18 show us with your fingers where it was located?

19 A The camera was located about right here, I would say  
20 six inches from the bottom of my neck.

21 Q Okay, right along the middle portion there. Is that  
22 fair to say?

23 A That's correct.

24 Q All right. Was this unusual or usual for you?

25 A This was unusual for me.

1 Q In what way?

2 A For an individual to walk up onto a police officer and  
3 start yelling at them and getting extremely close to a  
4 police officer, I find very unusual.

5 Q How were you attired that night?

6 A Can you -- can you repeat? Sorry, I didn't hear.

7 Q What were you wearing that night?

8 A I was wearing a Tompkins County Sheriff's Office  
9 uniform with a duty belt and an outer carrier vest.

10 Q And did you have a badge or anything shown?

11 A That's correct, the badge was on my outer carrier  
12 vest.

13 Q On your left side?

14 A That's correct.

15 (Video played)

16 Q Now, you can see a hand come out and touch him. Did  
17 you see that?

18 A Yes.

19 Q Whose hand is that?

20 A That's my hand.

21 Q What were you doing?

22 A I was trying to push Mr. Georgia away from me.

23 Q Why were you doing that?

24 A He was way too close to me, and I felt that he may  
25 harm me if he's that close to me.



1 Q You didn't know this man at all, did you?

2 A No, I did not.

3 Q You were there a few minutes, right?

4 A That's correct.

5 Q He was using foul language with you. Is that right?

6 A That's correct.

7 Q Would you say he was aggressive or not aggressive?

8 A I would say he was aggressive.

9 Q Now, you used the right hand to push him?

10 A Can we replay the video at that point?

11 (Video played)

12 Q Did you see that?

13 A Yes, I did.

14 Q Okay. Did that cause you concern?

15 A Yes, it did.

16 Q Why did it cause you concern?

17 A Because this individual who I don't know is walking up  
18 aggressively, swearing at me, and getting way too close to  
19 me.

20 Q And you knew him at that point for just minutes. Is  
21 that right?

22 A I would say seconds.

23 Q All right. Okay. How is his gait as he walked when  
24 he had first got up and approached you?

25 A He was -- I could tell he was slightly unsteady. He

1 used the tower speaker to -- for balance as he was walking  
2 up towards me.

3 Q What kind of speaker was it?

4 A It was a, I believe it's like a four-foot or  
5 three-foot tower speaker.

6 Q Okay. And is that what was producing the music and  
7 the noise?

8 A Yes, that's what I observed.

9 Q So when you put your hand on him, when you pushed him  
10 back, what happened after that?

11 A He stepped back, or he got back after I pushed him  
12 back, and tried to talk to him, and --

13 Q Okay, we can play some more video.

14 (Video played)

15 Q Now, was his position close to you or about the same  
16 distance when you first pushed him away?

17 A It was about the same distance.

18 Q So he came right back at you. Is that right?

19 A That's correct.

20 Q Did you have training in the police academy about  
21 letting people come close enough to you like that?

22 A Yes, we do.

23 Q What's the training?

24 A It's our defensive tactics training.

25 Q It's what?

1 A Our defensive tactics training.

2 Q Okay. What are you taught about that?

3 A If someone gets too close to you or in your space, you  
4 push them with your two hands in the upper chest and say get  
5 back.

6 Q And where did you get that training?

7 A In the police academy, the Southern Tier Law  
8 Enforcement Academy.

9 Q Proceed, if you would.

10 (Video played)

11 Q How far away is he from you at this time?

12 A Again I would say he's probably the same distance as  
13 the first time that I pushed him back.

14 Q Which is about what?

15 A I would say about one foot away.

16 Q Okay. Now, can you -- let's digress for a moment from  
17 the tape, or the video. Can you tell us what kind of  
18 equipment you carry that night?

19 A Yes. I carry a radio to communicate to my dispatch  
20 center and to other officers. I carry a -- I carry pepper  
21 spray. I carry extra magazines for my handgun. I carry a  
22 handgun, which is a Glock handgun. I'm not sure if it was a  
23 .9 millimeter or a .40 caliber at the time. I also carry a,  
24 did I say Taser?

25 Q No.

1 A Okay. We carry a Taser. I believe it was a  
2 Taser X26P model.

3 Q Do you carry any nightsticks?

4 A No.

5 Q Do you know what a nightstick is? It's wooden and  
6 about yea long?

7 A Yes, I do know what a nightstick is.

8 Q Do you carry any other devices, like something you  
9 could pull out and hit somebody?

10 A No.

11 Q What do you carry in order to defend yourself person  
12 to person?

13 A I carry a Taser, I carry pepper spray, and I carry a  
14 handgun, and I also have my hands.

15 Q Your hands.

16 A Yeah.

17 Q And are you taught in the academy about the hands?

18 A I am, yes.

19 Q All right. So in lieu of having the equipment you  
20 don't carry, you're taught to use your hands.

21 A That's correct.

22 Q What's the purpose of putting the hands on the person?

23 A It's a low level of force. We're not jumping up to a  
24 higher level of force with a Taser, pepper spray, or  
25 firearm, so we're just going to the hands first. It's

1 readily accessible to --

2 Q What's your training about the hands? Are you  
3 supposed to push him to the ground or just push him away  
4 from you?

5 A You're supposed to push him away from you. Some  
6 situations may suggest to push him to the ground if need be,  
7 but, in this situation I just wanted him to get away from  
8 me.

9 Q And what were you afraid of?

10 A I was afraid that I may be assaulted as a person. I  
11 don't know who this person is, so I just wanted him to get  
12 away from me.

13 Q Now, how long have you been a deputy?

14 A At this incident, or at this time?

15 Q As of today.

16 A Oh, as of today? I've been a deputy for coming up on  
17 5 years, so 4 years and a few months, or 4 years about 11  
18 months.

19 Q And when were you promoted to sergeant?

20 A I was promoted to sergeant in 2021, May of -- May 2nd  
21 of 2021.

22 Q And what were you taught, if anything, about throwing  
23 somebody to the ground?

24 A To use the only amount of force necessary to  
25 accomplish your task.

1 Q And when you put your hands on this man, the  
2 defendant -- the plaintiff, rather, and pushed him back from  
3 you, you thought that was the right level of force?

4 A That's correct.

5 Q Did he fall down at that time?

6 A No, he did not.

7 Q Can you go forward?

8 (Video played)

9 Q How large is the population of Tompkins County, would  
10 you estimate?

11 A It's a little over a hundred thousand people.

12 Q And how many deputies are there in the county?

13 A On this night?

14 Q Yes.

15 A There was three deputies working, myself included, as  
16 well as a road patrol sergeant, so four county employees,  
17 employees working the road that night.

18 Q How many -- are you familiar with the state police,  
19 how they patrol Tompkins County, and did --

20 MR. KOPKO: Your Honor, I object. I object.

21 THE COURT: Mr. Kopko, hold on. Hold on. Use the  
22 microphone.

23 Go ahead, Mr. Kopko.

24 MR. KOPKO: I object to this on grounds of  
25 relevance and how many officers are on patrol, how many

1 state police troopers are on patrol. That's not relevant to  
2 any of the issues that's before the Court.

3 THE COURT: Okay. Mr. Troy?

4 MR. TROY: Your Honor, it's a question of whether  
5 this man was acting reasonably or not. And part of that  
6 function is what resources do I have available if I get into  
7 trouble. I think it's a fair question.

8 THE COURT: Okay. So, Mr. Troy, you believe it's  
9 relevant to -- for this officer to testify as to what kind  
10 of backup resources --

11 MR. TROY: Right.

12 THE COURT: -- he had or did not have available  
13 and how that may lend itself to his perception of the  
14 situation and whether or not he needs to be in fear or not  
15 be in near.

16 MR. TROY: Exactly right.

17 THE COURT: All right. Mr. Kopko, does that make  
18 sense?

19 MR. KOPKO: Your Honor, it does, but I have a  
20 further objection about the state police. There's no  
21 foundation that he knows what was going on with the state  
22 police on that occasion.

23 MR. TROY: I can fix that, Judge.

24 THE COURT: Well, yeah. I'm going to allow it,  
25 Mr. Kopko. First take it in order. I believe law

1 enforcement, this witness and others in an area, I think  
2 it's fairly easily concluded that they work in tandem and  
3 the state police, the sheriff's department, and the city  
4 polices all know who's where, how many are on duty, because  
5 as -- as it happens in upstate, we all know that they rely  
6 on each other's assistance at times. So I don't think  
7 that's really an issue. And I do think Mr. Troy has a  
8 point, which is he's trying to simply establish whether or  
9 not -- and you can cross-examine, Mr. Kopko. He's trying to  
10 establish whether or not it was reasonable or unreasonable  
11 for this officer at that time to have a fear or not. So,  
12 for example, if this officer were to say oh, there were 75  
13 deputies on duty that night and 8 of them were down the  
14 road, well, that might be a different picture than if  
15 there's only 2 other deputies somewhere in the county, so.  
16 I think it makes sense. And most importantly I don't see  
17 any prejudice to either side with this information, so.

18 Go ahead, Mr. Troy.

19 BY MR. TROY:

20 Q So you're familiar with the state troopers on the  
21 night shifts, how they work?

22 A I am.

23 Q Back around that time, what was their procedure,  
24 covering the county?

25 A At midnight they pair up, so two troopers are in one



1 car. Most of the time. Can't say if a hundred percent or  
2 not, but most of the time they pair up around -- they meet  
3 at SP up on Dryden Road at around 11:30 --

4 Q So --

5 A -- at night.

6 Q So you're familiar with how the state police make  
7 themselves available in the county. Is that fair to say?

8 A Yes.

9 Q What did you understand your resources to be about 11  
10 or 12:00 that night when you were at this man's house?

11 A I believe my resources was I had one other sheriff's  
12 deputy unit because the third sheriff's deputy unit was  
13 going to be patrolling the whole west side of the county,  
14 and I was covering the portion of the east side of the  
15 county. So my backup was another sheriff's deputy, my  
16 sergeant if he needed to respond as well, and possibly one  
17 car state police unit with two troopers inside of that car.

18 Q Knowing that, were you concerned about what was going  
19 on at this house?

20 A Yes, I was.

21 Q What was your concern?

22 A That my backup was most likely at the Tompkins County  
23 Sheriff's Office.

24 Q And how far away was that, if you?

25 A From this residence driving at normal speeds I would

1 say around 12 to 15 minutes.

2 Q You didn't know this man. Is that fair to say?

3 A That's correct. Yes.

4 Q You had no idea what his background was?

5 A That's correct. I have no idea.

6 Q All right. So can we go forward?

7 (Video played)

8 Q Now, you just used the word ass in reference to this  
9 man. Is that right?

10 A That's correct.

11 Q You raised your voice.

12 A Correct.

13 Q Just generally? Have you done that with other people  
14 before this?

15 A I have, yes.

16 Q What were the circumstances?

17 A They would also -- or they would initiate that kind of  
18 behavior, raising their voice and swearing at me, and I  
19 tried to get on and talk on their level to get their  
20 attention and to hopefully de-escalate the situation.

21 Q Okay. How many times before this event had you used  
22 that strategy?

23 A I can't say for certain how many times but I would say  
24 at least a couple. Two. At least two times.

25 Q What was the success or failure rate on that?

1 A Both times were successful, if I can remember.

2 Q Successful being calmed down?

3 A Yeah, they would calm down, and I would be able to  
4 talk to them like a normal conversation, adult conversation.

5 Q All right. And I'm asking you to look at the still  
6 film as it is right now. How far would you estimate he is  
7 standing from you?

8 A At that distance I would estimate that he's about  
9 three feet, three or four feet away from me.

10 Q And did you notice anything about any smell of liquor  
11 on him?

12 A Yes. I could smell a strong odor of an alcoholic  
13 beverage emanating from his breath.

14 Q How far away was he from you when you first smelled  
15 that?

16 A When he was about one foot away from me at first, the  
17 first --

18 Q Did you start to have concerns at that point about  
19 your safety?

20 A Yes.

21 Q What were those concerns?

22 A I did. My concerns was this individual is highly  
23 intoxicated, he immediately approached me, which I thought  
24 was very abnormal. Started yelling at a obvious law  
25 enforcement officer and -- and swearing at me. So I --

1 that -- those were my concerns that he could be assaultive  
2 toward me.

3 Q We're not talking about what you feared, it was what  
4 you were concerned with that point. Is that fair to say?

5 A Yes, that's fair.

6 Q Can you please?

7 (Video played)

8 Q Again you're using language like fucking. Is that  
9 common for your use?

10 A No, it's not.

11 Q Why were you using it here?

12 A I was using it here to try to talk on Mr. Georgia's  
13 level to show that I'm not just going to let him try to --  
14 continue him speaking to me that way. I was attempting for  
15 him to stop speaking to me that way, and.

16 Q Well, was it just his speech that were concerning to  
17 you or something else?

18 A No, it was also his body language, the distance he was  
19 to me, and --

20 Q How far is he from you in this still photo?

21 A I would say he's about three feet away from me.

22 Q Okay. All right, proceed.

23 (Video played)

24 Q So what's happening here? This is a dark picture, I  
25 just want to make sure we have it described well.

1 A Yep. Mr. Georgia's asked me if I wanted to arrest  
2 him, and that he offered to put his hands behind his back.  
3 At that point I took my opportunity to try to detain this  
4 individual so that I could hopefully calm the situation  
5 down, and I knew that I would be safe at that point, so I  
6 tried to handcuff him to detain him for my safety.

7 Q Now, you say you handcuffed him for -- detained him  
8 for your safety. Were you arresting him or were you just  
9 trying to get him under control for your protection?

10 A I was just trying to get him under control for my  
11 protection.

12 Q What are some of the things you were worried about?

13 A I was worried that he could possibly strike me with  
14 his fist, kick me, knock me down, and maybe take one of my  
15 weapons that are on my duty belt.

16 Q And what caused you to have that thought about this  
17 man?

18 A Just because of his actions, how he was talking to me,  
19 how close he kept getting to me, and just his demeanor, his  
20 angry demeanor.

21 Q If I'm hearing correctly, he said okay, you can arrest  
22 me, and turned around and gave his hands behind his back?  
23 And then what happened?

24 A When I tried to place the handcuffs on him, he  
25 immediately ripped his hands out from behind him, turned

1 around to face me.

2 Q And proceed.

3 (Video played)

4 Q How often in your career have you had somebody like  
5 this wanting to dance with you?

6 A I can't think I've had anybody in my career.

7 Q What you were thinking about when he asked that?

8 A This was also again worrisome for myself how  
9 unpredictable Mr. Georgia was being.

10 Q Was it weird, to use that word?

11 A Yes.

12 Q Proceed.

13 (Video played)

14 Q So did I hear that he's going to fuck you up?

15 A Yes.

16 Q What did you take that to suggest to mean?

17 A I took that that he was would assault me.

18 Q So you're 4 minutes and 39 seconds or so into this  
19 encounter, he's already threatened to fuck you up. Is that  
20 fair to say?

21 A Yes.

22 Q All right. Had you ever experienced that before?

23 A No.

24 (Video played)

25 Q What are you doing there in that scene?

1 A I'm trying to call my sergeant, who is Sergeant Vann.

2 Q Where was he, he was on patrol?

3 A Yeah, I'm assuming he was at the sheriff's office.

4 Q What were you looking to do if you reached him?

5 A I was looking to get some guidance because I was  
6 unsure what to do in this situation.

7 Q You never really encountered anything quite like this.  
8 Is that right?

9 A That's right.

10 Q And you sought the aid and assistance of a supervisor.  
11 Is that right?

12 A That's correct.

13 Q And to do that you stepped away from him. Is that  
14 right?

15 A That's correct.

16 Q Okay. Go ahead.

17 (Video played)

18 Q Now, there's a phone being shown. It looks like a  
19 name on it. What name is on it?

20 A The name is James Vann.

21 Q That's your sergeant?

22 A That's my sergeant, correct.

23 Q So you're trying to talk to him, and now are you being  
24 interrupted by this man?

25 A Yes.

1 (Video played)

2 Q All right, so we're going to talk about what just  
3 happened. Were you walking backwards at that point?

4 A I was walking -- trying to walk towards VanOstrand  
5 Road.

6 Q Do you know to where?

7 A The end of the driveway.

8 Q So you were trying to walk down. What were you going  
9 to do if you -- if you got there?

10 A I was just going to try to get ahold of my sergeant  
11 and get guidance.

12 Q So as you're trying to walk down there, he comes up to  
13 you and does what, if anything?

14 A He comes up and stands very close behind me, yelling,  
15 get the fuck off my property, or walk down my driveway.

16 Q Okay. And you were sort of heading down towards the  
17 street so you could call the sergeant. Is that right?

18 A That's correct.

19 Q Is it fair to say you had never encountered anything  
20 quite like this?

21 A That's correct.

22 Q Had it ever been taught at the police academy to you?

23 A Not for this situation, no.

24 Q Okay. Proceed.

25 (Video played)



1 Q All right, now what just happened there, 'cause it's  
2 very dark?

3 A I pushed Mr. Georgia twice backwards.

4 Q And how did you do it, which hands did you use?

5 A I used both of my hands and I pushed the upper part of  
6 his chest backwards.

7 Q Is that something you had done earlier?

8 A Yes.

9 Q Both hands?

10 A That's correct.

11 Q That's what you were trained to do?

12 A That's correct.

13 Q And they actually gave you lessons where you learned  
14 how to push people in a safe way?

15 A That's correct.

16 Q Okay. Did you push him intending to knock him down or  
17 just to have him step back?

18 A I pushed him to just get him back away from me.

19 Q Now, during the time leading up to this, you had a  
20 chance to watch how he was moving with his legs. Did he  
21 seem to be moving freely or did he seem to be unsure of  
22 himself as he was moving around?

23 A I don't really recall, but from the video footage it  
24 looks like he was having -- wasn't walking like a normal  
25 human being would walk.

1 Q So what was your fear factor at this point?

2 A That Mr. Georgia kept approaching me from behind, and  
3 at that point I realized that this was a very dangerous  
4 situation and --

5 Q You say approaching from behind. What had happened  
6 that you -- that you were ahead of him and he was behind  
7 you?

8 A I was trying to walk away from Mr. Georgia to call my  
9 sergeant.

10 Q And then he came up to you and went into your space,  
11 to use that term?

12 A That's correct.

13 Q Were you expecting that?

14 A No, I was not.

15 Q So you were surprised?

16 A Yes, I was.

17 Q You were concerned?

18 A Yes.

19 Q And you used your training to use your two hands just  
20 to push him back?

21 A That's correct.

22 Q Was it your intent to have him fall to the ground?

23 A No.

24 (Video played)

25 Q Now, what are you trying to do here?

1 A I'm trying to place Mr. Georgia in handcuffs behind  
2 his back.

3 Q And for safety reasons?

4 A That's correct.

5 Q And you have something in your left hand. What's  
6 that?

7 A That is my pepper spray.

8 Q You had testified about that yesterday, and you were  
9 asked questions about whether you actually engaged it and  
10 sprayed anybody with that. Did you?

11 A No, I did not.

12 Q Had you done that, who would have been sprayed?

13 A Mr. Georgia would have been sprayed.

14 Q You could have been sprayed too, right?

15 A That's correct.

16 Q Is that what you wanted, to be incapacitated with that  
17 with this man?

18 MR. KOPKO: Your Honor, I object to that, your  
19 Honor, he was not sprayed. I mean we're getting speculative  
20 about Davenport spraying himself.

21 THE COURT: No, I -- I think he's -- I think  
22 Mr. Troy's asking this officer, one, whether he's sprayed or  
23 not, and also why he did or didn't, and explaining the  
24 scene. I don't think it's speculative because we're getting  
25 it from this witness, who's saying this is what I did, this

1 is what I didn't do, and this is why. And then, lastly,  
2 Mr. Kopko, you can cross-examine on this same topic, but I  
3 think Mr. Troy is just taking the officer step by step  
4 through what he did, why he did it, or why he didn't do it.  
5 So.

6 BY MR. TROY:

7 Q Had he engaged in any other conduct that made you  
8 worry up to the point of pushing him where he fell to the  
9 ground?

10 A No.

11 Q How about his hands, did you notice anything about his  
12 hands?

13 A I did notice that his hands at a few points were,  
14 whether one was clenched or not I can't remember but I  
15 remember that one, one or two were clenched at a couple  
16 points in our interactions before I pushed Mr. Georgia.

17 Q And when you say clenched, and you saw that, where did  
18 you see his hands?

19 A Down by his side.

20 Q Now, is that shown on your video?

21 A It might be.

22 Q On your device, rather.

23 A It might be, I'm not sure.

24 Q Have you looked?

25 A I have.

1 Q Okay. And you're not sure if it's clear?

2 A I'm not, no.

3 Q Okay. But you were concerned that you thought you saw  
4 him clenching his fist, one or more fist?

5 A That's correct.

6 Q At this point you heard him say he was going to fuck  
7 you up, correct?

8 A That's correct.

9 Q He touted his Marine Corp experience, right?

10 A I don't recall that.

11 Q And did your concern level go up or down at this point  
12 when he came up to you, when you were trying to talk to --

13 A My concern level was very high.

14 Q Which way were you facing when he approached you?

15 A I was facing I believe towards the northwest.

16 Q So down the driveway at an angle?

17 A That's correct.

18 Q Were you expecting him to come upon you like that?

19 A No, I was not.

20 Q And you reacted, according to your training, with both  
21 hands. Is that right?

22 A That's correct.

23 Q Did you intend then or at any other time to push him  
24 down and throw him on the ground?

25 A No.

1 Q Proceed, please.

2 (Video played)

3 Q Now, you have the spray, the pepper spray, in your  
4 left hand. Right?

5 A That's correct.

6 Q Okay. And what were you trying to do with that?

7 A I was trying to have it ready so that maybe he would  
8 loosen up his muscles so that I could get his hands behind  
9 his back so the threat to use pepper spray if he would  
10 provide me his hands.

11 Q So you didn't want to use the pepper spray but you had  
12 it if it was necessary.

13 A That's correct. And also if he was going to try and  
14 assault me or while I was trying to handcuff him.

15 Q Did there come a time when you put your pepper spray  
16 away without using it?

17 A Yes, I did.

18 Q Why did you do that?

19 A I felt Mr. Georgia's muscles loosen up, and I was able  
20 to put the pepper spray away to move his hands to the small  
21 of his back.

22 Q So he relaxed.

23 A That's correct.

24 Q You took that as he's not fighting now. Is that  
25 right?

1 A That's correct.

2 Q And you put the pepper spray away.

3 A Correct.

4 Q Then you went and took steps just to handcuff him so  
5 he could not hurt you. Is that fair to say?

6 A That's fair to say, yes.

7 (Video played)

8 Q What was that musical noise?

9 A That is my phone ringing.

10 Q Who was calling you, could you tell from the phone?

11 A No, the phone was in my pocket, but I -- I believe I  
12 did get a missed call from Sergeant Vann.

13 Q Okay. Go ahead.

14 (Video played)

15 Q How is his demeanor there, more calm?

16 A Somewhat calmer, yes.

17 Q Okay. Physically calmer but not -- not verbally?

18 A He was somewhat verbally, he was verbally a little  
19 more calmer, yeah.

20 (Video played)

21 Q Did you throw him down on his property, yes or no?

22 A No.

23 Q How -- were you -- if I understand, you turned and  
24 pushed him?

25 THE COURT: Mr. Troy, just use the microphone,

1 because --

2 MR. TROY: Sorry, Judge.

3 THE COURT: -- if I can't hear you, I know the  
4 court reporter can't hear ya.

5 MR. TROY: I don't want to do that.

6 BY MR. TROY:

7 Q So you pushed him in such a way that he moved away  
8 from you. Is that right?

9 A That's correct.

10 Q Approximately how many feet?

11 A I would say about seven to ten feet away.

12 Q And that's the farthest he was away from you that  
13 evening up until that point.

14 A That's correct.

15 Q And you felt the safest at that point.

16 A That's correct.

17 Q And you weren't looking to hurt him, were you?

18 A No, I was not looking to hurt Mr. Georgia.

19 Q So do you get the handcuffs on him?

20 A I did.

21 Q And they were rear handcuffs or the front?

22 A Rear.

23 Q Is that department procedure?

24 A Yes.

25 Q Okay.



1 (Video played)

2 Q There was a screen or a camera of some sort, or a  
3 phone. Did you see that? Was that you taking the phone out  
4 of your pocket?

5 A Yes, it was.

6 Q And who was that trying to call you?

7 A Sergeant Vann.

8 Q Did you speak to him?

9 A I did speak to him.

10 Q What'd you ask him to do?

11 A I asked him to respond over because I had an  
12 individual in custody.

13 Q Okay.

14 (Video played)

15 Q Now, is that dead?

16 A It's muted at that point.

17 Q Why was it muted?

18 A Because I was speaking with Sergeant Vann.

19 Q Oh, okay. Is that -- does department procedure allow  
20 you to do that?

21 A I don't recall right now. Our new updated body cam  
22 policy does not allow us to do that.

23 (Video played)

24 Q But the old rules might have allowed it, right?

25 A It may have. I don't recall.

1 Q Okay. Right.

2 (Video played)

3 Q When he says let go of me, what were you doing to him?

4 A I had my hand on the top of his I believe right  
5 shoulder.

6 Q Okay. What was the purpose of that?

7 A So he wouldn't fall over one way or another. He was  
8 seated on his butt.

9 Q On the ground?

10 A Yes.

11 Q All right.

12 (Video played)

13 Q What just happened there?

14 A Mr. Georgia just kicked his cooler.

15 Q Okay. Okay, with his bare foot?

16 A It looks like he had a sandal on and it fell off.

17 (Video played)

18 Q What's that light that was flashing?

19 A That was my flashlight.

20 Q To alert the sergeant where you were?

21 A Yes.

22 (Video played)

23 Q Who has just arrived?

24 A That would be Sergeant James Vann.

25 Q And what's happening now?

1 A Sergeant Vann and I are on either side of Mr. Georgia  
2 and we're walking him down his driveway towards our patrol  
3 cars.

4 Q Were you dragging him?

5 A No, I was not dragging him.

6 Q Were you carrying him?

7 A No, I was not carrying him.

8 Q He was walking as you described.

9 A That's correct.

10 Q He wasn't complaining about walking. Is that fair to  
11 say?

12 A That is fair to say.

13 (Video played)

14 Q Does he have difficulty understanding as he was  
15 walking along there?

16 A Yes.

17 Q What was he saying, from what you knew?

18 A I don't know.

19 Q You have years dealing with people who are  
20 intoxicated, is that right, years of experience?

21 A That's correct.

22 Q In the DWI settings and the like?

23 A That's correct.

24 Q At this point did you form an opinion about whether he  
25 had consumed excess alcohol that night?

1 A I did.

2 Q What was that opinion?

3 A That he was highly intoxicated due to consumption of a  
4 large amount of alcoholic beverages.

5 (Video played)

6 Q Did that cause you to make sure he was handcuffed and  
7 walking to the car?

8 A Yes.

9 (Video played)

10 Q Now what's happening here?

11 A I muted my body camera to tell Deputy Murray, who just  
12 arrived on scene, and Sergeant Vann about what just  
13 happened.

14 Q What were the regulations for the sheriff's department  
15 in terms of muting your machines?

16 A If I'm out of public's -- if I'm not dealing with a  
17 member of the public and I'm just interacting with fellow  
18 officers, then I can mute the body camera.

19 Q Go ahead. See, it's going.

20 (Video playing)

21 Q While we're looking at this playing, what were you  
22 telling them, in sum and substance?

23 A I was telling them that when I arrived on scene for  
24 this noise complaint only one individual came up to me and  
25 was being very aggressive. He approached me several times,

1 told him to get back. Never did. Then when I pushed him  
2 the second or third time he was right behind me when I was  
3 trying to call for James' assistance, or, sorry, Vann's  
4 assistance, and pushed him back twice and the third time  
5 where he fell to the ground, then placed him in handcuffs  
6 and made a decision to arrest him for obstructing  
7 governmental administration.

8 (Video played)

9 Q Now, is your mic on now?

10 A No, it's not.

11 Q What were you doing at that point?

12 A Right now I was letting my dispatch center know that I  
13 had one male in custody and that I was going to be  
14 transporting him from 791 VanOstrand Road to the Tompkins  
15 County Sheriff's Office and I was providing them with my  
16 starting mileage.

17 (Video played)

18 Q For the record, can you tell us where this is taking  
19 place, what we're seeing here?

20 A Yeah, this scene is outside of Tompkins County  
21 Sheriff's Office.

22 Q The ride you just took was from plaintiff's home to  
23 the sheriff's department. Is that right?

24 A That's correct.

25 (Video played)

1 Q That is this tape? That's the ending of the drive to  
2 the sheriff's office?

3 A That's correct.

4 Q Okay. Now, is there another video that shows us from  
5 the sheriff's office to the hospital?

6 A Yes, there is.

7 MR. TROY: It's P-16 I'm told, your Honor. Is  
8 that it?

9 (Video played)

10 MR. TROY: This is -- for the record, I'm  
11 beginning to show Exhibit P-16, which covers the ride from  
12 the sheriff's office to the hospital.

13 THE COURT: Okay. So we have Exhibit 16 now.

14 (Video played)

15 BY MR. TROY:

16 Q Now, he says I don't want to go to the hospital, I  
17 just want to go home. Is that an option for you?

18 A No.

19 Q Why not?

20 A I believe that Mr. Georgia was highly intoxicated and  
21 unable to care for himself and was a potential danger to  
22 himself or others.

23 Q And what does that occasion?

24 A That's covered by the New York State Mental Hygiene  
25 Law, 22.09.

1 Q Okay, what does that provide in general, that people  
2 intoxicated like that must be taken to hospital?

3 A If there's nobody to care for them.

4 Q And as you were there, you didn't know of anybody to  
5 care for him. Is that right?

6 A That's correct.

7 (Video played)

8 Q Now, what happened here?

9 A I muted my body camera. It may have been an accident,  
10 I don't recall. But I don't know why I would have muted it.

11 Q There's a few seconds of talking to the other officer.  
12 Is that right?

13 A That's correct.

14 MR. TROY: For the record, your Honor, this is  
15 about 22 and a half minutes long, this current film.

16 THE COURT: Okay.

17 MR. KOPKO: If he's going to show that, Judge, may  
18 I take a brief break here?

19 THE COURT: Yeah, let's take a few-minute break  
20 before, stretch your legs and use restrooms, okay?

21 (Recess taken)

22 THE COURT: All right. We're back on the record  
23 after a very short, brief recess. And, Mr. Troy, you may  
24 continue.

25 MR. TROY: Continue.

1 (Video played)

2 MR. TROY: Stop for a minute.

3 BY MR. TROY:

4 Q Now, sir, the picture's gone black here. This is a  
5 car pulling away. Do you see that?

6 A Yes, I do.

7 Q What seems to have happened?

8 A It looks like the seat belt when I put it on covered  
9 the camera lens.

10 Q Okay, can you hear, though, through the machine?

11 A Yeah, once the audio kicks back on.

12 Q Okay. And this is taking the plaintiff from the  
13 sheriff's office to the hospital. Is that right?

14 A That's correct.

15 Q Okay.

16 (Video played)

17 Q Are you in the same police car you were in earlier?

18 A That's correct.

19 Q And you're heading to the Tompkins Community Hospital?

20 A I was heading to Cayuga Medical Center.

21 Q Cayuga Medical Center.

22 A Yeah.

23 Q Okay.

24 (Video played)

25 Q How long is the ride usually from the sheriff's



1 department to CMC?

2 A It's about 12 to 13, 14 minutes.

3 (Video played)

4 Q What is that noise?

5 A I have no idea.

6 (Video played)

7 MR. TROY: Your Honor?

8 THE COURT: Yes.

9 MR. TROY: I can represent to the Court I've  
10 watched this. I have never heard this noise before. This  
11 was the --

12 THE COURT: The crackling?

13 MR. TROY: Yes. It's been suggested that the  
14 noise is in here. I'm not blaming anybody.

15 THE COURT: I think it could be correct because  
16 when you folks submitted the exhibits, I did watch the  
17 submitted exhibits, or some of them, I should say, some of  
18 the video, and the same crackling is not there, so. It  
19 could be our system the way the sound is inputted. That  
20 being said, you're welcome to play any of these videos here  
21 today, but keep in mind the Court will review these again,  
22 because it's all in evidence.

23 MR. TROY: We understand that. I just wanted to  
24 represent I don't know where this is coming from.

25 THE COURT: I agree with you, because I did review

1 some of the video, especially the other video that we  
2 watched which was Exhibit 14, and there was some crackling  
3 in that too that you don't hear when you play it on a  
4 computer. On the computer alone, so.

5 MR. TROY: All right.

6 THE COURT: It's a long way of saying I think  
7 you're correct.

8 (Video played)

9 BY MR. TROY:

10 Q What is he doing in the video there?

11 A He's peeing on the floor.

12 (Video played)

13 BY MR. TROY:

14 Q What just happened there?

15 A I turned my body camera off.

16 Q Why did you do that?

17 A Because we were in a patient care center of the  
18 hospital, and they have a right to privacy.

19 Q And that's your procedure at the sheriff's department?

20 A That's correct.

21 Q All right. Now, Deputy, did you intend at any time to  
22 harm the plaintiff here?

23 A No.

24 Q What were you concerned about in addressing the  
25 plaintiff?

1 A I was concerned about my safety, the safety of anybody  
2 else who came onto the property of Mr. Georgia.

3 Q What could have happened if you had left?

4 MR. KOPKO: I object to that, your Honor.

5 MR. TROY: I withdraw the question. I withdraw  
6 the question.

7 THE COURT: Okay.

8 BY MR. TROY:

9 Q You were concerned about your own well-being at that  
10 point, right?

11 A That's correct.

12 Q And were you concerned about neighbors who might have  
13 been in a similar situation?

14 A Yes.

15 Q Who wouldn't have tools and the training you have to  
16 protect themselves?

17 A That's correct.

18 MR. TROY: And I have nothing further, your Honor.

19 THE COURT: All right, Mr. Troy. Thank you.

20 Mr. Kopko, are you ready to examine?

21 MR. KOPKO: Yes, your Honor.

22 THE COURT: Okay. You may proceed.

23 CROSS-EXAMINATION

24 BY MR. KOPKO:

25 Q Now, Deputy, we talked before about your knowledge of

1 making accurate police reports. You remember talking about  
2 that?

3 A I do.

4 Q And you knew that your supervisors would be reading  
5 your reports?

6 A Yes.

7 Q And you wanted to have an accurate factual record  
8 about what you saw and everything, right?

9 A Correct.

10 Q Now, when you were beginning your testimony this  
11 afternoon, you said that you heard music 75 feet, 75 feet  
12 before you came up to Georgia's house. Right? You never  
13 made a record of that in your report.

14 A No, I did not.

15 Q You didn't mention that to anybody. Right?

16 A Correct.

17 Q But now you remember 3 years and 10 months later that  
18 it was 75 feet that you heard that.

19 A Roughly, correct.

20 Q Okay. Deputy, you're just making this up as you go  
21 along, aren't ya?

22 A No, I'm not.

23 Q Deputy, you -- you said that -- several times that you  
24 were aware of other deputies that you could call, right?

25 You could call for assistance?

1 A Correct.

2 Q Right. And you were aware of state troopers, correct?

3 A Correct.

4 Q And you were aware of a sergeant? Correct?

5 A Correct.

6 Q And you -- what you're telling the Court is that you  
7 were afraid for your safety, correct?

8 A Correct.

9 Q And you were concerned about your well-being, correct?

10 A That's correct.

11 Q Yeah. But you never called anybody.

12 A That's incorrect.

13 Q You didn't talk to Sergeant Vann.

14 A That's correct.

15 Q You didn't make a radio call for help.

16 A Yes, I did.

17 Q And what did you say in the radio call?

18 A Along the lines of can you send another unit.

19 Q All right. But you didn't say it in an urgent way.

20 A That's correct.

21 Q Right. You were all casual about that, correct?

22 A Correct.

23 Q Yeah. So when you're here telling the Court that you  
24 were afraid for your safety that night, you weren't afraid  
25 for your safety, were you?

1 A No, I was afraid for my safety.

2 Q You were the aggressor. Correct?

3 A No, that's incorrect.

4 Q Do you remember getting the performance correction  
5 notice about your behavior?

6 A I do.

7 Q And you remember that occasion? Right?

8 A I -- yeah, I never got that, but I remember the  
9 meeting with Lieutenant Koskinen.

10 Q You remember the meeting, right?

11 A That's correct.

12 Q And that's where your performance was being corrected,  
13 correct?

14 A That's correct.

15 Q It reads, open quote: I explained to Davenport that I  
16 reviewed his body camera footage and it was clear to me that  
17 Davenport was unsure about himself after repeatedly telling  
18 Georgia you're under arrest for disorderly conduct but not  
19 taking appropriate action to commence the arrest. You agree  
20 that you were unsure of yourself?

21 A Yes.

22 Q Okay. In fact, you said that you were calling  
23 Sergeant Vann for guidance, correct?

24 A Yes.

25 Q All right, you didn't know what you were doing, did

1 you?

2 A I just wanted some clarification.

3 Q I didn't ask you that. You didn't know what you were  
4 doing and you were calling Sergeant Vann for guidance.

5 A That's correct.

6 Q You didn't know what to arrest or anything like that,  
7 correct?

8 A That's correct.

9 Q And then the lieutenant said that after reviewing this  
10 that he considered your behavior to be unprofessional by  
11 using profanity many times towards Georgia. You now agree  
12 with that, correct?

13 A I do.

14 Q That you were unprofessional.

15 A Yes, that's correct.

16 Q All right. And you were also unprofessional in being  
17 aggressive towards Georgia. Correct?

18 A No.

19 Q You don't think so?

20 A No.

21 Q On the second page of this --

22 THE COURT: Mr. Kopko, just for the record, what  
23 exhibit number is it you're looking at?

24 MR. KOPKO: This one's Exhibit 30, your Honor.

25 THE COURT: 30? Okay.

1 BY MR. KOPKO:

2 Q On the top of the page it says, open quote, I  
3 explained to Deputy Davenport that if he was unsure if an  
4 arrest was warranted, he could have just walked away from  
5 the scene and contacted his supervisor. You agree with  
6 that, Deputy?

7 A Yes, I do.

8 Q So when you were there and Mr. Georgia was yelling at  
9 you, you could have just walked away. Correct?

10 A I didn't think that at the time.

11 Q At the time you didn't think that.

12 A Correct.

13 Q But now you know that that is the correct thing to do.

14 A Correct.

15 Q So between the time that you were there shoving  
16 Mr. Georgia and screaming profanities at him and pushing him  
17 over and arresting him, between that time and today, you  
18 learned that that was inappropriate behavior, correct?

19 A No.

20 Q No?

21 A Not all of that.

22 Q Oh. When did you learn that that was inappropriate  
23 behavior?

24 A Can you be more specific on what behavior you're  
25 talking about?



1 Q Yeah, when did you learn that using the profane  
2 language was inappropriate?

3 A I learned that I would say probably a year after this  
4 incident.

5 Q A year?

6 A I would say, roughly.

7 Q And what -- what happened that you learned that?

8 A I don't know, I just -- this incident, I would say.

9 Q I'm a little bit confused, Deputy. It took you a year  
10 to understand that your language was inappropriate?

11 A Correct.

12 Q What were you doing in that year to reflect upon your  
13 behavior?

14 A I felt that I was professional.

15 Q Okay. Did you take any courses about de-escalating?

16 A No, I did not.

17 Q Did you take any courses about appropriate  
18 police/civilian conduct, contacts?

19 A No, I did not.

20 Q Did you consult with, say, Lieutenant Koskinen about  
21 appropriate police conduct?

22 A In the meeting that we had, yes.

23 Q Okay. But I'm talking about the year later when you  
24 had this revelation.

25 A No.

1 Q Did you just wake up one morning and it dawned on you  
2 that you were unprofessional?

3 A No.

4 Q How did it happen?

5 A I feel like it happened over a course of time.

6 Q Over a course of time.

7 A Correct.

8 Q Just time led you to believe that you were  
9 unprofessional.

10 A Yeah, time and experience.

11 Q Time and experience. Well, what was the experiences  
12 that you had?

13 A Just watching other police interactions throughout the  
14 country.

15 Q And then you came to the conclusion that you were  
16 unprofessional.

17 A That's correct.

18 Q All right. Now, Lieutenant Koskinen says that you  
19 were unsure. And you were unsure, correct?

20 A That's correct.

21 Q All right. That you could have -- and his quotes,  
22 he -- quotes, he could have just walked away, closed quotes.  
23 You could have just walked away and none of this would have  
24 happened, correct?

25 A There's a possibility of that, yeah.

1 Q No, Deputy, you could have just walked away, and none  
2 of this would have happened. Is that correct?

3 A I -- that's a possibility, yeah.

4 Q If you were not there, none of these events would have  
5 happened.

6 A Again, that's another possibility. I don't know if  
7 that's the case or not.

8 Q Well, I'm asking you, Deputy, if you were not there,  
9 do you agree that none of these events would have happened?

10 A No, I don't agree.

11 Q Well, who would have shoved Georgia?

12 A I don't know.

13 Q Who -- who would have handcuffed Georgia if you  
14 weren't there?

15 A I don't know.

16 Q Nobody would have done it, correct?

17 A Another officer if I wasn't there, maybe.

18 Q But there was no other officer, Davenport, there was  
19 no one.

20 If you had just walked away, none of this would  
21 have happened. Correct?

22 A I don't know the answer to that question.

23 Q You don't know that.

24 A No. It's a possibility.

25 Q Well, let's talk about the possibilities. Tell me all

1 of the possibilities that if you were not there, how this  
2 could have happened. Tell me the -- start with number 1.  
3 We're going to write them down and talk about them. Give me  
4 the first possibility.

5 A If I wasn't there, then another officer would get  
6 dispatched to that call and would possibly do the same  
7 actions that I did. I don't know. That's a possibility.

8 Q You don't know that, Deputy.

9 A I -- I -- exactly.

10 Q Is that the only possibility that you can come up  
11 with?

12 A No. If I walked away, a neighbor could respond over  
13 to try to have Mr. Georgia turn the music down and they  
14 could potentially be assaulted.

15 Q Deputy, you're just fantasizing about this, aren't  
16 you?

17 A It's a possibility.

18 Q A possibility. Do you -- do you in your mind think  
19 that there is any chance that that possibility could occur?

20 A Yes.

21 Q You do believe that?

22 A I do.

23 Q Now, it says here, Deputy, quote, Davenport agreed to  
24 my advice. Do you see that?

25 A Yes.

1 Q Now, the date on this is June 21st, 2019. You see  
2 that?

3 A I do.

4 Q So it wasn't a year after this that you had your  
5 revelation, you -- you agreed 20 days later, correct?

6 A Correct.

7 Q So where are you coming up with this year business?

8 A Just from watching like other body cam videos  
9 throughout the country of officers interacting with the  
10 general public really just set it in stone.

11 Q Other officers in other video. Right?

12 A That's correct.

13 Q But the lieutenant is recording that you agreed with  
14 him on June 21st.

15 A That's correct.

16 Q You agreed that you should have just walked away.

17 A That's correct.

18 Q So, so when you're telling us about all of these  
19 possibilities, it contradicts what you reported in this  
20 report, that you agreed with the lieutenant, correct?

21 A That's correct. I agreed that I would walk away from  
22 the property and investigate it further, not leave the whole  
23 scene.

24 Q It says, could have just walked away from the scene.

25 A Okay.

1 Q You understand what it says?

2 A I understand what it says.

3 Q And you agreed with what the lieutenant was telling  
4 you, correct?

5 A Correct.

6 Q Now, I'll ask you here for the last time. You agree  
7 that all of this could have been avoided if you had just  
8 done as the lieutenant advised you, correct?

9 A Correct. If I walked away from Mr. Georgia and to my  
10 patrol car to investigate it further.

11 Q I didn't get that last part.

12 A To investigate it further.

13 Q Yes. Yeah. And you agree that by staying there, you  
14 were escalating this.

15 A No.

16 Q You pushed Georgia three times.

17 A Correct.

18 Q The last time you pushed him, you knocked him over.  
19 If you had left the scene and gone to your patrol car, you  
20 would have never knocked him over, correct?

21 A No.

22 Q How would he have gotten knocked over?

23 A If I came back to arrest him with another deputy and  
24 he wanted to resist or try to flee or something along those  
25 lines. And there's a possibility that he could have been

1     knocked over again. Or for the first time, I should say.

2     Q     Deputy, you understand that none of that happened. Do  
3     you -- do you get that?

4     A     Yes, I do.

5     Q     Now, Deputy, and you turned off your body camera at  
6     several times in these tapes. Right?

7     A     Can you be more specific? Did I turn the audio or the  
8     video off?

9     Q     You turned off your -- your body camera.

10    A     No, I did not.

11    Q     You didn't turn off your body camera when you were  
12    talking to Vann and the other deputy in the roadway?

13    A     No, I turned the audio off. I muted the body camera.  
14    But it was still --

15    Q     Oh, you turned off the audio.

16    A     That's correct.

17    Q     Okay. And you try to be a conscientious police  
18    officer, correct?

19    A     That's -- that's correct.

20    Q     And you try to do your job, correct?

21    A     Correct.

22    Q     And you know the tools of your job are following the  
23    procedures, the policies, and the guidelines that are  
24    published by the sheriff's department, correct?

25    A     That's correct.

1 Q And you know that you have to follow those policies  
2 and guidelines, correct?

3 A Correct.

4 Q And you have read those policies and guidelines so  
5 that you can be competent in the performance of your duties,  
6 correct?

7 A That's correct.

8 Q And you read the policy dealing with the video and the  
9 body camera, correct?

10 A That's correct.

11 Q Did you read the part where it says, once recording --  
12 MR. KOPKO: This is Exhibit 33, your Honor.

13 BY MR. KOPKO:

14 Q Once recording of an incident has begun, officers will  
15 continue recording until, indented photograph ii, an  
16 arrested subject has been transported to the public safety  
17 building or jail. You see that?

18 A I do.

19 Q You agree that the policy is you have to leave your  
20 camera and your body camera on.

21 A That's correct. I realize that.

22 Q You realize that.

23 A Yes.

24 Q But you were so proficient in your job you realized it  
25 on June 1st too, didn't you?



1 A I did, yeah.

2 Q And you should not have turned off the audio.

3 A Can you point where it says the audio is not off?

4 Q This --

5 A Or the definition of recording?

6 Q This is the procedures that were delivered to me by  
7 counsel regarding the body camera. Do you have something  
8 else that you rely on?

9 A Currently yes, we have video updated body worn camera  
10 policy.

11 Q Deputy, do you understand I'm not asking you about  
12 that?

13 A Yes, I understand that.

14 Q I'm talking about June 1st, 2019. Do you get that?

15 A I do.

16 Q And the policy that was in effect on that time says  
17 that you have to keep this -- keep -- once recording of an  
18 incident is started, you've got to keep it going.

19 A That's correct.

20 Q And you violated that policy by turning off the audio.

21 A I don't believe I did.

22 Q Well, tell me, point to me where it says you can turn  
23 it off. Show us.

24 A I didn't turn the body camera off, I just muted it.

25 Q You show us where it says you can mute it. Where's it

1 say that?

2 A I don't remember if it does say that in this older  
3 policy. That was our procedure that all of our deputies and  
4 sergeants did at that time.

5 Q Well, we'll ask Vann about that on Monday.

6 A Okay.

7 MR. KOPKO: A brief indulgence, your Honor.

8 THE COURT: Certainly.

9 Mr. Kopko, let's go off the record for a minute.

10 MR. KOPKO: Yes, your Honor.

11 (Off-the-record discussion was held.)

12 THE COURT: You may continue, Mr. Kopko.

13 MR. KOPKO: Thank you, sir.

14 Brief indulgence, your Honor, while we load this.

15 THE COURT: Certainly.

16 MR. KOPKO: May I approach the witness, your  
17 Honor?

18 THE COURT: You may.

19 MR. TROY: Which exhibit is that?

20 MR. KOPKO: 43.

21 BY MR. KOPKO:

22 Q Deputy, I have handed to you what's been marked as  
23 Exhibit 43. It's not in the packet but it will be, but we  
24 have agreed to the admission of that and his Honor has  
25 accepted it, all right? Do you recognize the scene of that?

1 A I do.

2 Q All right. And that's the aerial photograph of  
3 Mr. Georgia's property?

4 A That's correct.

5 Q And right across the street in that photograph is the  
6 residence of Mr. Gonzalez.

7 A Okay.

8 Q Do you agree with that?

9 A I never went to Mr. Gonzalez' residence so I don't  
10 know.

11 Q Oh, that's right, you never bothered to go there,  
12 right? Did you learn that this was across the street?

13 A No, I did not.

14 Q So it wasn't important to talk to Gonzalez.

15 A No, it was important.

16 Q It was important.

17 A Correct.

18 Q Is that another mistake you made?

19 A That's correct.

20 MR. KOPKO: Just a brief indulgence, your Honor.

21 THE COURT: Certainly.

22 MR. KOPKO: Exhibit 30, your Honor. We will  
23 display it here in a second.

24 THE COURT: All right, you're going to put  
25 Exhibit 30, Mr. Kopko, on the screen?

1 MR. KOPKO: Yes, sir.

2 THE COURT: Okay.

3 BY MR. KOPKO:

4 Q Do you see that in front of you, Deputy?

5 A I do.

6 Q All right, do you see where the lieutenant has written  
7 I further educated Deputy Davenport that he can make a  
8 disorderly conduct arrest for unreasonable noise on private  
9 property so long as a third party complainant provides a  
10 supporting deposition. You see that?

11 A I do.

12 Q Now, when you were there and you were confused about  
13 what you were doing, you didn't know that, did you?

14 A No, I did know that I was confused.

15 Q Pardon me?

16 A I did know that I was confused.

17 Q All right. Did -- did you -- when you were  
18 threatening to arrest Mr. Georgia for disorderly conduct,  
19 you didn't know that you couldn't do that without a  
20 supporting deposition from a complainant.

21 A That's correct.

22 Q Well, why were you threatening to arrest him?

23 A Because I didn't think I needed a supporting  
24 deposition.

25 Q On what basis?

1 A On the basis that I already had a name from our  
2 complainant, Ricky Gonzalez, and I could put that into the  
3 to wit section of the accusatory.

4 Q Deputy, this requires a supporting deposition,  
5 correct?

6 A I understand that now, yes.

7 Q You understand it now. Correct?

8 A That's correct.

9 Q But you didn't understand it then?

10 A That's correct.

11 Q And that's all part about you didn't know what you  
12 were doing, correct?

13 A Correct.

14 Q Did you ever consider the effect of your error upon  
15 Mr. Georgia?

16 A No.

17 Q You didn't consider that?

18 A No.

19 Q Did you see how he recoiled when you were threatening  
20 to arrest him for disorderly conduct?

21 A Yes.

22 Q All right. And you know now that that would have been  
23 an illegal arrest, correct?

24 A I don't. I think I -- I would have gotten advice from  
25 my sergeant and could have gotten a supporting deposition.

1 Q But you didn't do that, Deputy. You didn't do that.

2 A Correct.

3 Q You were just arresting him and you were not following  
4 the proper procedures, correct?

5 A No, I was following the proper procedures.

6 Q Deputy, you did not have the supporting deposition.

7 A Correct.

8 Q So you were not following the proper procedures.

9 A I was trying to detain Mr. Georgia.

10 Q I didn't ask you that. You did not have the  
11 supporting deposition, correct?

12 A That's correct.

13 Q You were not following the proper procedures.

14 A That's incorrect.

15 Q That's incorrect.

16 A Yes.

17 Q Well, how -- how do you under -- how do you explain  
18 that, that there's a requirement for a supporting deposition  
19 and you didn't have it?

20 A I was trying to just detain Mr. Georgia to calm the  
21 situation down and figure out things from there.

22 Q Oh, that's what you were doing --

23 A That's correct.

24 Q -- right? You -- you think that you have authority to  
25 detain people without any justification?

1 A I think so, when they're -- I did have justification.  
2 I was investigating a noise complaint.

3 Q Deputy, do you understand that you can't investigate a  
4 noise complaint without a supporting deposition? Do you get  
5 that?

6 A No, I believe you can investigate a noise complaint  
7 without a supporting deposition.

8 Q Do you also believe that you could have arrested  
9 Mr. Georgia for disorderly conduct?

10 A On June 1st, 2019, I did.

11 Q All right. But you were so unsure of yourself that  
12 you had to call Vann, correct?

13 A That's correct.

14 Q So you didn't know what you were doing, Deputy. Is  
15 that correct?

16 A I was unsure of myself, that's correct.

17 Q And you were so unsure of yourself, but it never  
18 dawned on you to do what the lieutenant had advised and just  
19 walk away. Correct?

20 A Correct, I did not walk away.

21 Q Yeah. That's because you were angry, correct?

22 A I was not angry.

23 Q Were you -- you told Mr. Georgia that -- that he was  
24 then under arrest, and I wrote this down. You told  
25 Mr. Georgia that he was under arrest for obstruction of

1 governmental administration, quote, you wouldn't listen to  
2 me when I told you to back up. Right?

3 A Correct.

4 Q You -- you think that you can arrest someone for  
5 obstructing governmental administration because they don't  
6 listen to you?

7 A It depends on the circumstances.

8 Q I asked you, do you think that you can arrest someone  
9 because they don't listen to you?

10 A Again, it depends on the circumstances.

11 Q Well, under these circumstances --

12 A Yes.

13 Q -- you think that you could arrest him?

14 A Yes.

15 Q Well, do you have an explanation for the fact that the  
16 Court threw out this charge?

17 A I do not.

18 Q Without a hearing? All right. Do you think that the  
19 Court agreed that you had no authority to do this?

20 A I don't know what the Court decided.

21 Q Now, Deputy, we're ready to do this here now. 75 feet  
22 away you -- you say you hear very loud noise. Right?  
23 That's your sworn testimony.

24 A That's correct.

25 Q All right. And there's no doubt in your mind about



1 that.

2 A Roughly. Roughly 75 feet away.

3 Q All right.

4 A From the -- where I parked my patrol car.

5 Q And when you're driving, you have the noise and the  
6 chatter of the radio communications, correct?

7 A Rarely. It's 11:00 at night so there's not a lot of  
8 radio traffic.

9 MR. KOPKO: Go ahead.

10 (Video played)

11 BY MR. KOPKO:

12 Q You hear all that background noise?

13 A I do.

14 Q What is that?

15 A That's my radio traffic.

16 Q Hold on. Hold on.

17 So you say you rarely have radio traffic, and the  
18 instant that we turn this on, there's radio traffic.

19 A Correct.

20 Q That's correct. Well, do you have constant radio  
21 traffic or do you have it rarely, what is it?

22 A It depends on what's going on throughout the county.

23 Q All right. But at that moment when you were pulling  
24 up, there's radio traffic, and that's the only thing that  
25 you hear on that is your radio traffic, correct?

1 A No. I hear music being played from 791 VanOstrand  
2 Road.

3 Q You hear music.

4 A That's correct.

5 Q Can you identify the music?

6 A No, I just know that it's music.

7 Q And you think from this -- this tape that that music  
8 was unreasonably loud? I -- I cannot hear that. Can you  
9 actually tell the judge that you hear that?

10 A Yes.

11 Q But you don't know what it was.

12 A I just knew it was music.

13 Q What kind of music?

14 A I don't know.

15 Q You have no idea? Was it reggae, was it hard rock,  
16 was it classic rock?

17 A I don't recall.

18 Q All right.

19 (Video played)

20 Q Now, you're the witness but I -- I don't hear any  
21 music. Are you telling the Court that you hear music  
22 playing?

23 A Yes.

24 Q When you're getting out. Okay.

25 A That's correct.

1 Q And you think that the music that you hear is  
2 sufficient to support an unsubstantiated complaint about  
3 loud music. Is that your position?

4 A When -- yeah, on June 1st, 2019, that's what I  
5 thought, yes.

6 Q That's what you thought.

7 A Correct.

8 Q And when you stepped out of your patrol car, you --  
9 you believed that that music, that I can't hear, I don't  
10 know if anybody else can hear, that I can't hear, that music  
11 was loud enough to substantiate your complaint and go on  
12 that property without a warrant.

13 A That's correct.

14 (Video played)

15 Q Now, again, you know, you're the witness. I -- I  
16 didn't hear any music until you said what's up, guys.  
17 You -- you're saying that you heard music all that way?

18 A Correct.

19 Q And the music that you were hearing is loud enough to  
20 support this complaint as you're walking up there.

21 A That's correct.

22 MR. KOPKO: Brief indulgence, your Honor.

23 THE COURT: Certainly.

24 MR. KOPKO: Can we caucus for just a minute, your  
25 Honor? Caucus with my client for just a minute, consult

1 with my client?

2 THE COURT: Oh, yeah, absolutely. Yep.

3 MR. KOPKO: We're going to fast-forward on the  
4 video, your Honor, there's just one other point that I --

5 THE COURT: Hold on, Mr. Kopko, I want to make  
6 sure we go on the record. You want this on the record,  
7 right?

8 MR. KOPKO: Yes, please.

9 THE COURT: Okay, go ahead, we're back on the  
10 record.

11 MR. KOPKO: We just have one other point here. We  
12 are going to fast-forward through the videotape, and then  
13 we'll be done with this.

14 THE COURT: That's fine.

15 (Video played)

16 BY MR. KOPKO:

17 Q Deputy, you agree that this segment is an example of  
18 the unprofessional conduct that the lieutenant was talking  
19 about?

20 A My language, yes.

21 Q All right. And you should never have said that.

22 A Correct.

23 Q And you said it because you were angry.

24 A No, I think I was very worked up and scared and trying  
25 to get this guy into custody.

1 Q Worked up, okay. You were worked up.

2 A Yeah.

3 Q Let's talk about that. All right. You considered  
4 yourself to be a professional police officer?

5 A I do.

6 Q But you know that just by virtue of being a police  
7 officer, do you agree that you can get worked up in  
8 situations all the time?

9 A Correct, yes.

10 Q All right. And do you agree that you have an  
11 obligation, a professional obligation, to exercise  
12 restraint?

13 A Yes.

14 Q All right. But you didn't do that here.

15 A No, I did not.

16 Q Do you -- do you think that your lack of restraint had  
17 any impact upon Mr. Georgia?

18 A No.

19 Q Nothing whatsoever.

20 A No.

21 Q You don't think a police officer, heavily armed police  
22 officer, rushing towards him and pushing him backwards twice  
23 had any effect on him? Is that what you're saying?

24 A No.

25 Q None whatsoever.

1 A (Shakes head).

2 Q If somebody had rushed at you and put their hands on  
3 your chest and pushed you twice and pushed you over, you're  
4 saying that wouldn't have any effect on you?

5 A I see what you're saying now. Yeah, it would have an  
6 effect on me.

7 Q Of course it would.

8 A Yeah.

9 Q And you -- you agree that that effect on Mr. Georgia  
10 would -- would have -- would have the effect of making him  
11 angry, right?

12 A It's a possibility, yes.

13 Q Well, you say possibility. It -- you pushed him over  
14 backwards. You don't think that would make him angry?

15 A It's a possibility.

16 Q But you say possibility. Why are you qualifying it?  
17 Is he -- is he justified in being angry or not? Yes or no?

18 A I -- no.

19 Q No. But yet for you it's different. If someone had  
20 charged you and pushed you twice and pushed you over, you  
21 feel like you would be justified in being angry.

22 A Depends on what I did.

23 Q If you were just trying to get somebody off of your  
24 property that had no business being there, would you be  
25 angry?

1 A It's a possibility.

2 Q Possibility.

3 MR. KOPKO: I have nothing further, your Honor.

4 THE COURT: All right, Mr. Kopko.

5 Mr. Troy, anything on redirect?

6 MR. TROY: Very briefly, your Honor, if I may.

7 REDIRECT EXAMINATION

8 BY MR. TROY:

9 Q What charges were brought on the night of this arrest?

10 A It was resisting arrest and obstructing governmental  
11 administration.

12 Q Nothing about disorderly conduct, right?

13 A That night, no.

14 Q Now, on Exhibit 30, which you were questioned about,  
15 write-up by I guess Kyle Koskinen, right, if you look at the  
16 page with measurable tangible improvement goals?

17 THE COURT: Mr. Troy, if you could use the mic,  
18 because I can't hear the last part.

19 MR. TROY: I'm sorry.

20 BY MR. TROY:

21 Q I'm asking you to look at paragraph 1, measurable,  
22 tangible improvement goals. Do you see that?

23 A I do.

24 Q And what happened in that part of this analysis is it  
25 was explained to you that if he was unsure if an arrest was

1 warranted, he could have just waited, walked away from the  
2 scene, and contacted his superior, correct?

3 A Correct.

4 Q Okay. Now, did you have any questions about whether  
5 or not an arrest was warranted for the two charges that were  
6 pressed?

7 A No, I did not.

8 Q So you did not charge disorderly conduct that night.  
9 Is that right?

10 A That's correct.

11 MR. TROY: I have nothing further, your Honor.

12 THE COURT: All right, Mr. Troy.

13 Mr. Kopko, any recross?

14 MR. KOPKO: Yes.

15 THE COURT: You may -- you may proceed.

16 MR. KOPKO: Thank you, sir.

17 RECROSS-EXAMINATION

18 BY MR. KOPKO:

19 Q You told Mr. Georgia that he was under arrest for  
20 disorderly conduct, correct?

21 A I believe I just said obstructing governmental  
22 administration.

23 Q I didn't ask you that.

24 A So no.

25 Q You told Mr. Georgia that he was under arrest for



1 disorderly conduct. Is that true or not?

2 A I don't believe so, no.

3 (Video played)

4 Q Did you hear that?

5 A I do.

6 Q All right. You told him you're going to arrest him  
7 for disorderly conduct, correct?

8 A No.

9 (Video played)

10 Q All right, did you hear that?

11 A I did.

12 Q What did you hear?

13 A I can arrest you for disorderly conduct.

14 Q All right. So you're telling the Court that you never  
15 arrested him for disorderly conduct --

16 A That's correct.

17 Q -- is that true?

18 A That's true.

19 Q All right. Well, if you -- if you didn't do it, and  
20 you know that you could not do it, you had no business even  
21 saying it, correct?

22 MR. TROY: Objection, your Honor.

23 THE COURT: Objection to the question?

24 MR. TROY: Yes.

25 THE COURT: Mr. Kopko?

1 MR. KOPKO: Well, this all goes to his  
2 maliciousness, your Honor, or his -- no, this goes to his  
3 maliciousness. If -- if he was -- he knew that there was no  
4 basis for it, and he wasn't going to do it, it supports the  
5 conclusion that he was simply being malicious.

6 THE COURT: But I thought your question was to the  
7 witness if you could not arrest for disorderly conduct, then  
8 why did you say that he could be arrested for disorderly  
9 conduct. Was that your question?

10 MR. KOPKO: Yes, your Honor.

11 THE COURT: And Mr. Troy is objecting? I don't  
12 know why, I'm not sure I got the legal reason, but Mr. Troy  
13 objects because?

14 MR. TROY: Well, because you can talk about any  
15 number of charges you're thinking about bringing as a police  
16 officer but before that went anywhere, they had two  
17 accusatories. Not one was disorderly conduct.

18 THE COURT: Yeah.

19 MR. TROY: I think a police officer's entitled to  
20 put his thinking cap on and decide what's the appropriate  
21 charge once you get things calmed down.

22 THE COURT: I get it. Mr. Kopko, I'll let you ask  
23 the question but I -- I'm not sure where and how it's  
24 relevant, because the officer's told you, the witness has  
25 said to you he did not arrest him for dis con. That's what

1 the witness says. And he admits that on the video here he  
2 told Mr. Georgia at the time that he could arrest him for  
3 dis con, and beyond that now I'm not sure other than  
4 arguing --

5 MR. KOPKO: This refines it here, Judge, let me --  
6 with your indulgence, let me proceed with this.

7 THE COURT: Okay. Let's hear where we go.

8 BY MR. KOPKO:

9 Q All right. Now, you knew that you could not arrest  
10 Mr. Georgia for disorderly conduct, correct?

11 A No.

12 Q You didn't know that?

13 A Nope.

14 Q Oh, you only learned that when the lieutenant  
15 reprimanded you, correct?

16 A Correct.

17 Q Okay.

18 MR. KOPKO: Nothing further, Judge. Thank you.

19 THE COURT: All right, Mr. Kopko.

20 Mr. Troy, anything else?

21 MR. TROY: Just so we're crystal clear.

22 THE COURT: Hold on. Get to the microphone first.

23 MR. TROY: I'm sorry.

24 REDIRECT EXAMINATION

25 BY MR. TROY:

1 Q Just so we're very clear, when you prepared accusatory  
2 instruments, for what charges were they that night?

3 A Obstructing governmental administration and resisting  
4 arrest.

5 Q Nothing to do with disorderly conduct. Do you agree?

6 A Correct.

7 Q You had suggested that that's one charge you perhaps  
8 could pursue, but you decided later not to do it. Correct?

9 A I think my supervisor thought it would be smart to  
10 make that charge.

11 Q Okay. But you never charged him with disorderly  
12 conduct.

13 A I never charged him with disorderly conduct.

14 Q So you used your own discretion and said that's not an  
15 appropriate charge, and you charged two other issues.

16 A Correct. That night, I did not arrest for disorderly  
17 conduct.

18 MR. TROY: Thank you.

19 MR. KOPKO: Your Honor?

20 THE COURT: Okay, Mr. Kopko?

21 MR. KOPKO: Yes, sir.

22 THE COURT: Wait till you get to the microphone.

23 MR. KOPKO: Yep.

24 THE COURT: Helps us all.

25 MR. KOPKO: No, I'm just following Bill's lead,

1 and I should not have done that.

2 RECROSS-EXAMINATION

3 BY MR. KOPKO:

4 Q Now, when you were pressing these charges, you did  
5 bring a charge of obstructing governmental administration.  
6 Correct?

7 A That's correct.

8 Q All right. And you understand that being a competent  
9 police officer you have to be familiar with the New York  
10 Penal Law, correct?

11 A That's correct.

12 Q And because of that, you're familiar with the elements  
13 of obstructing governmental administration, correct?

14 A That's correct.

15 Q What are they?

16 A They are when a police officer is doing an official --  
17 an official function of their job duties and somebody either  
18 by intimidation or physical force impedes that government  
19 function. That's how I interpret it. I don't have it right  
20 in front of me, so I'm not -- I can't read it verbatim.

21 Q Do you understand that it has to be a legitimate  
22 governmental function?

23 A Yes.

24 Q You do?

25 A Yes.

1 Q All right. And do you understand under the facts of  
2 this case that there -- you had no business being on the  
3 property?

4 A I did not at that time.

5 Q But you understand that now.

6 A No, I -- I think I could have still been on the  
7 property trying to investigate this noise complaint.

8 Q Tell me all the reasons why, when Mr. Georgia told you  
9 to get the fuck off his property, you ignored him.

10 A I wanted to mediate the situation, just try to get him  
11 to turn down the music so I could leave, and that obviously  
12 was not happening, so I went to -- he was becoming  
13 aggressive. Trying to detain him, that didn't happen, so  
14 try to call my sergeant to get further guidance and figure  
15 out where to go from there, and so I feel like I'm still --  
16 I felt that I was still investigating this incident doing a  
17 official -- an official function.

18 Q Yeah, but, Deputy, you know that while you were there,  
19 the music went off.

20 A I know that now. I did not know that on June 1st,  
21 2019.

22 Q Here, let me see that I understand. You're there  
23 investigating a loud music complaint, correct?

24 A That's correct.

25 Q And while you're there, the music goes off, correct?

1 A Correct.

2 Q Correct? Right? And you're telling the Court that  
3 you were unaware of that?

4 A Yes.

5 Q You agree that that was your reason for being there.

6 A Yes.

7 Q And once the music went off, you could have just left,  
8 correct?

9 A That's correct.

10 Q But, but by that time you were so angry and so upset  
11 that you weren't going to leave unless Georgia went with  
12 you, correct?

13 A No, that's not correct.

14 Q Why didn't you just leave when the music went off?

15 A I didn't hear the music go off.

16 Q Well, didn't Vann walk up to you and say there's no  
17 music playing?

18 A No, he didn't.

19 Q Didn't the other heavy-set deputy come up and say to  
20 you there's no music playing?

21 A No.

22 Q Nobody said that. No?

23 A No.

24 Q Okay.

25 MR. KOPKO: Nothing further, your Honor. Thank

1 you.

2 THE COURT: All right, Mr. Kopko.

3 Mr. Troy? Anything else?

4 REDIRECT EXAMINATION

5 BY MR. TROY:

6 Q Would you agree that music can go on and music can go  
7 off?

8 A Can you repeat? I didn't hear.

9 Q Can -- do you agree that music can go off and then it  
10 can go on?

11 A Yes. I do agree with that.

12 Q So you had no way of knowing, and you didn't know,  
13 whether or not the music was done but for the rest of that  
14 night or for whatever period of time. Is that right?

15 A That's correct.

16 Q And you never --

17 MR. TROY: Nothing further, your Honor.

18 MR. KOPKO: Nothing, your Honor.

19 THE COURT: All right. Mr. Troy, nothing further.  
20 Mr. Kopko?

21 MR. KOPKO: Nothing further, your Honor.

22 THE COURT: All right. All right. Deputy  
23 Davenport, Sergeant Davenport, you're excused. You can go  
24 back to counsel table.

25 THE WITNESS: Thank you, your Honor.



1 (The witness was excused.)

2 THE COURT: Okay.

3 All right. So I believe we are wrapped up for  
4 today.

5 Mr. Troy, is that correct?

6 MR. TROY: Yes, your Honor.

7 THE COURT: Okay, Mr. Kopko?

8 MR. KOPKO: Yes, your Honor.

9 THE COURT: Okay. So my understanding is on  
10 Monday Sergeant Vann will be called by you, Mr. Kopko, for  
11 examination and whatever cross, and then -- and again, I'm  
12 not holding you to it, Mr. Kopko, but my understanding is  
13 that that will then be the plaintiff's case. Is that  
14 generally right now your -- your position?

15 MR. KOPKO: Yes, your Honor, it is.

16 THE COURT: Okay. And then, Mr. Troy, although  
17 I'm not holding you either, you believe that you will not be  
18 presenting any further evidence after that?

19 MR. TROY: That's correct, your Honor.

20 THE COURT: Okay. All right, so my thinking was  
21 10 a.m. on Monday. Does that work for you, Mr. Kopko?

22 MR. KOPKO: Yes, sir.

23 THE COURT: Mr. Troy?

24 MR. TROY: Yes, sir.

25 THE COURT: All right. So 10 a.m. Monday morning,

1 we will continue the trial, and we will go from there.

2 MR. TROY: Thank you, sir.

3 THE COURT: Everyone have a nice rest of the day,  
4 have a -- have a nice weekend, everybody. We'll see you  
5 Monday morning at 10 a.m.

6 MR. KOPKO: Thank you.

7 THE COURT: Thank you.

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## INDEX TO TESTIMONY

WITNESS:	DX	CX	RDX	RCX
RONALD M. GEORGIA	--	7	--	--
KYLE DAVENPORT	27	66	94	95
			98	101
			103	--

CERTIFICATE OF OFFICIAL REPORTER

I, RUTH I. LYNCH, RPR, RMR, NYS Realtime Certified Reporter, Federal Official Court Reporter, in and for the United States District Court for the Northern District of New York, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

/s/ Ruth I. Lynch

RUTH I. LYNCH, RPR, RMR, NYSRCR  
Official U.S. Court Reporter